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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Working Group on Indigenous Populations
Twentieth session
22-26 July 2002

ANNOTATIONS TO THE PROVISIONAL AGENDA

Prepared by the Secretary-General pursuant to the request of the Working Group on Indigenous Populations at its eighteenth session

1. Election of officers

1. Rule 23 of the rules of procedure of the functional commissions of the Economic and Social Council provides that, unless the Commission decides otherwise, its subsidiary organs shall elect their own officers.

2. Adoption of the agenda

2. Rule 7 of the rules of procedure provides that the agenda shall be adopted at the beginning of each session, after the election of officers, on the basis of the provisional agenda. The provisional agenda for the present session of the Working Group on Indigenous Populations, as drafted in consultation with the Chairperson-Rapporteur, Mrs. Erica-Irene Daes, is contained in document E/CN.4/Sub.2/AC.4/2002/1.

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3. Organization of work of the session

3. The attention of the Working Group is drawn to the provisional agenda and the need to complete its discussion of the substantive items within the five working days allotted. At previous sessions, the Chairperson-Rapporteur has set strict time limits in order to ensure that all participants wishing to make a statement are given the opportunity to do so. Such time limits will again be necessary in order to ensure that all items of the agenda are comprehensively discussed.

4. Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people

Principal themes:

(a) "The Working Group and indigenous peoples: achievements in the United Nations system and a vision for the future";

(b) "Indigenous peoples and their right to development, including participation in development affecting them".

4. At its nineteenth session (See E/CN.4/Sub.2/2001/17, para. 163), the Working Group decided to highlight the theme "The Working Group and indigenous peoples: achievements in the United Nations system and a vision for the future" at its twentieth session. The Sub-Commission on the Promotion and Protection of Human Rights, in its resolution 2001/10, recommended that the Working Group at its twentieth session adopt that theme and that the Office of the High Commissioner for Human Rights (OHCHR) invite the relevant United Nations organizations to provide information and, if possible, participate in the meetings of the Working Group. At its nineteenth session also, the Working Group decided to continue at its twentieth session to examine the theme "Indigenous peoples and their right to development, including their right to participate in development affecting them" (See E/CN.4/Sub.2/AC.4/2001/17, para. 160).

5. Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people

General statements, including on land issues, education and health

5. In accordance with the mandate established under Economic and Social Council resolution 1982/34, the Working Group is authorized to review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous populations, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the final report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, entitled "Study of the problem of discrimination against indigenous populations" (E/CN.4/Sub.2/1986/7 and Add.1-4).

6. The item of the agenda reviewing developments affecting indigenous peoples provides invaluable information to members of the Working Group. The information provided is considered by them as strengthening ongoing efforts of the United Nations system to recognize, promote, protect and restore the rights of indigenous peoples. In its resolution 2002/63, the Commission on Human Rights urged the Working Group to continue its comprehensive review of developments and of the diverse situations and aspirations of the world's indigenous people. However, it may be noted that the Working Group is not a chamber of complaints and cannot act upon specific allegations concerning violations of human rights.

6. Standard setting activities including a review of indigenous people's relationship with natural resource, energy and mining companies

7. Under the mandate established by the Economic and Social Council in its resolution 1982/34, the Working Group is authorized to meet to "give special attention to the evolution of standards concerning the rights of indigenous populations". At its fourth session, in 1985, the Working Group decided under this item of its agenda that it should aim at producing as a first formal step a draft declaration on indigenous rights. At that session, seven principles were drafted in preliminary wording (E/CN.4/Sub.2/1985/22, annex II). As in previous years, the report of the Working Group was transmitted to Governments, intergovernmental and non-governmental organizations and indigenous organizations. Comments on the draft principles were requested from these interested parties. It may be noted that every year since 1985, the draft declaration as prepared by the Chairperson-Rapporteur of the Working Group, Mrs. Erica-Irene Daes, has been transmitted by the Secretary-General to Governments, intergovernmental and non-governmental organizations and indigenous organizations, requesting their proposals, suggestions and comments.

8. At its fifth session, in 1987, the Working Group adopted 14 draft principles in preliminary wording (E/CN.4/Sub.2/1987/22, annex II). The Chairperson-Rapporteur was entrusted with the task of preparing a set of draft principles and preambular paragraphs for insertion into a future declaration. This working paper was adopted as a preliminary draft declaration and formed the basis of discussions at the sixth session of the Working Group, in 1988 (E/CN.4/Sub.2/1988/25). The Working Group recommended that the Chairperson-Rapporteur prepare a first revised text of the draft declaration based on comments made during the Working Group's sixth session and the written observations received from Governments, intergovernmental and non-governmental organizations and indigenous organizations (E/CN.4/Sub.2/1988/24, annex II).

9. At its seventh session, in 1989, the Working Group had before it an analytical compilation of comments received and a first revised text of the draft declaration prepared by the Chairperson-Rapporteur (E/CN.4/Sub.2/1989/33, Add.1). This allowed for a discussion of the draft declaration article by article (E/CN.4/Sub.2/1989/36, paras. 61-92). At the eighth session of the Working Group, in 1990, it was decided to establish three informal drafting groups to continue the elaboration of the draft declaration. The draft that was prepared by the Working Group at its 1990 session was based on the text of the first revised draft declaration and the analytical commentary prepared by the Chairperson-Rapporteur and the discussions carried out in the informal drafting groups (E/CN.4/Sub.2/1990/42, and annexes). The Chairperson-Rapporteur was, once again, invited to revise the draft declaration on the basis of

these comments and the written observations of Governments, intergovernmental and non-governmental organizations and indigenous organizations for presentation at the ninth session of the Working Group.

10. At its ninth session in 1991, the Working Group considered the working paper of the Chairperson-Rapporteur (E/CN.4/Sub.2/1991/36). Further discussions of the preambular and operative paragraphs of the draft declaration took place and the text (E/CN.4/Sub.2/1991/40, annex II) was agreed upon by members of the Working Group. The Chairperson-Rapporteur was entrusted with the preparation of a working paper based on written suggestions provided by Governments and indigenous organizations. At its tenth session, in 1992, the Working Group had before it a revised working paper prepared by the Chairperson-Rapporteur containing the draft declaration (E/CN.4/Sub.2/1992/28). On the basis of the text before the session, the Working Group completed a preliminary reading of the preambular and operative paragraphs and began a second reading (E/CN.4/Sub.2/1992/33). The Working Group recommended that the draft declaration as revised by the Chairperson-Rapporteur on the basis of the comments made during its session as well as the information received from interested parties be presented to the Working Group at its eleventh session.

11. At its eleventh session, in 1993, the Working Group had before it the working paper of the Chairperson-Rapporteur (E/CN.4/Sub.2/1993/26). Further elaborations of the draft declaration were made by members of the Working Group during the session (E/CN.4/Sub.2/AC.4/1993/CRP.4). The Working Group completed the second reading of the draft declaration and agreed upon a text (E/CN.4/Sub.2/1993/29, annex I). In its resolution 1993/46, the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided to postpone until its forty-sixth session consideration of the draft declaration; it requested the Secretary-General to submit the draft declaration to the appropriate services within the Centre for Human Rights for technical revision; it also requested the Secretary-General to transmit the text of the draft declaration to indigenous peoples and organizations, Governments and intergovernmental and non-governmental organizations.

12. At its twelfth session, in 1994, the Working Group had before it the technical review by the Centre for Human Rights (E/CN.4/Sub.2/1994/2) and the draft declaration as agreed upon by members of the Working Group at its eleventh session (E/CN.4/Sub.2/1994/2/Add.1). In accordance with the decision taken at its eleventh session, the Working Group heard general comments on the draft declaration, it being understood that these would not lead to any changes in the text of the draft declaration. At its forty-sixth session, the Sub-Commission, in its resolution 1994/45, adopted the draft United Nations declaration on the rights of indigenous peoples agreed upon by members of the Working Group without a vote and decided to submit it to the Commission on Human Rights at its fifty-first session. In its resolution 1995/32, the Commission decided to recommend to the Economic and Social Council to establish an open-ended intersessional working group with the sole purpose of elaborating a draft declaration, considering the draft submitted by the Sub-Commission. The Commission also invited applications from organizations of indigenous people not in consultative status with the Economic and Social Council interested in participating in the working group. Such organizations were requested to send particulars of their organization to the Coordinator of the International Decade of the World's Indigenous People, who would consult with the Government concerned and transmit the information to the Committee on Non-Government Organizations of

the Economic and Social Council for consideration and possible approval. The seventh session of the working group of the Commission on Human Rights to review the draft United Nations declaration on the rights of indigenous peoples was held from 28 January to 8 February 2002. The report of the working group is contained in document E/CN.4/2002/98.

13. At its thirteenth session, the Working Group had before it a note by the Chairperson-Rapporteur containing certain criteria which might be applied when considering the concept of indigenous peoples (E/CN.4/Sub.2/AC.4/1995/3). At its forty-seventh session, the Sub-Commission, in its resolution 1995/38, requested that the Chairperson-Rapporteur be entrusted with the preparation of a working paper on the concept of "indigenous people". The working paper (E/CN.4/Sub.2/AC.4/1996/2) was available at the fourteenth session of the Working Group. At its forty-eighth session, the Sub-Commission, in its resolution 1996/31, requested the Chairperson-Rapporteur to prepare a supplementary note on the concept of "indigenous people". The above-mentioned note (E/CN.4/Sub.2/AC.4/1997/2) was available at the fifteenth session of the Working Group.

14. At its eighteenth session, the Working Group decided to continue to review under this item of the agenda, indigenous peoples' relationship with natural resource, energy and mining companies.

7. International Decade of the World's Indigenous People, including information relating to the Voluntary Fund for the International Decade and the report of the Advisory Group

15. The recommendation to proclaim an international decade of the world's indigenous people was made by the World Conference on Human Rights in the Vienna Declaration and Programme of Action (Part II, para. 32). The General Assembly, in its resolution 48/163, proclaimed the International Decade of the World's Indigenous People, to commence on 10 December 1994. The General Assembly invited indigenous organizations and other interested non-governmental organizations to consider what contributions they could make to the success of the Decade, with a view to their being presented to the Working Group; decided to observe one day of every year as the International Day of Indigenous People and invited the Working Group to identify an appropriate day for that purpose; and requested that the meeting to review the International Year also consider preparations for the Decade and report to the Working Group.

16. The Commission on Human Rights, in its resolution 1994/26, invited the Working Group to propose an appropriate day of every year to be observed as the International Day of Indigenous People, following consultations with indigenous people, and requested the Working Group to identify possible projects and other activities in connection with the Decade and to submit them, through the Sub-Commission, to the Commission at its fifty-first session. The suggestions and recommendations arising from the Technical Meeting on the International Year and Decade (20-22 July 1994) were submitted to the Working Group at its twelfth session.

17. At its twelfth session the Working Group recommended that the International Day of the World's Indigenous People be observed annually on 9 August. This recommendation was endorsed by the General Assembly in its resolution 49/214. In the same resolution, the Assembly adopted a short-term programme of activities for the Decade and invited the Commission on Human Rights at its fifty-first session to adjust or supplement it as required. In its resolution 1995/28, the Commission decided upon a final programme of activities for the Decade for the year 1995. The General Assembly, in its resolution 49/214, also recommended that a second technical meeting on the planning of the Decade be convened immediately prior to the thirteenth session of the Working Group.

18. At its fiftieth session, the General Assembly, in its resolution 50/157, adopted the programme of activities for the International Decade of the World's Indigenous People contained in the annex to the resolution. The Commission on Human Rights, in its resolution 1996/39, welcomed the decision of the Assembly to adopt the programme of activities for the Decade; it also welcomed the establishment by the Coordinator of the Decade of an advisory body to provide guidance with regard to the projects and programmes financed from the Voluntary Fund for the International Decade of the World's Indigenous People. The recommendations of the Advisory Group at its latest session are contained in document E/CN.4/2002/98.

19. At its fifty-fifth session, the Commission on Human Rights, in its resolution 1999/51, requested the High Commissioner for Human Rights in her capacity as Coordinator of the Decade to submit to the General Assembly at its fifty-fourth session a midterm report reviewing the implementation of the programme of activities for the Decade, including identification of obstacles to the achievement of the goals of the Decade and recommendations for solutions. The Commission also invited the Working Group to submit its views on the activities of the Decade to the High Commissioner. The report of the High Commissioner is contained in document A/54/487 and Add.1.

20. At its fifty-eighth session, the Commission on Human Rights, in its resolution 2002/65, welcomed the first report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2002/97), submitted pursuant to Commission resolution 2001/57, especially the outline of his future programme of work.

8. Other matters

(a) Meetings and seminars

(b) Voluntary Fund for Indigenous Populations

21. Under this item, members of the Working Group considered a range of questions including meetings and seminars which have been held or are due to be held in the near future. In this connection, it may be noted that the fifteenth session of the Board of Trustees of the Voluntary Fund for Indigenous Populations met from 3 to 5 April 2002 and recommended that travel grants be given to 79 representatives of indigenous organizations and communities to attend the Working Group on Indigenous Populations and to 23 representatives of indigenous organizations and communities authorized to attend the working group of the Commission on Human Rights to review the draft United Nations declaration on the rights of indigenous peoples.

These recommendations were approved by the High Commissioner on behalf of the Secretary-General. The General Assembly, in its resolution 56/140 of 19 December 2001, expanded the mandate of the Fund by deciding that the Fund should also be used to assist representatives of indigenous communities and organizations in attending, as observers, the sessions of the Permanent Forum on Indigenous Issues. In this respect, the Board of Trustees also recommended that travel grants be given to 25 indigenous representatives to attend the first session of the Permanent Forum on Indigenous Issues, to be held from 13 to 24 May 2002, in New York. Information relating to the Voluntary Fund is contained in document E/CN.4/Sub.2/AC.4/2002/6.

9. Adoption of the report of the Working Group on its twentieth session

22. Under rule 37 of the rules of procedure, the Working Group is to report to the Sub-Commission on the work of its session. The report of the Working Group, which is prepared while the Sub-Commission is in session, will be contained in document E/CN.4/Sub.2/2002/15.